

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**JESSE MARTINEZ, personal
representative for the Estate of Rita Blanco,
deceased,**

Plaintiff,

v.

**WILLAMETTE VALLEY MEDICAL
CENTER, LLC, a foreign limited liability
company; AUDREY TERESA TRAINER;
EMERGENCY MEDICAL ASSOCIATES
OF McMINTONVILLE, LLP, a domestic
limited liability partnership; and the
UNITED STATES of AMERICA,**

Defendants.

Case No. 3:15-cv-01794-SI

ORDER

Michael H. Simon, District Judge.

On October 8, 2015, Defendant United States of America (the “United States”) moved to dismiss Plaintiff Jesse Martinez’s (“Martinez”) claims against it under Federal Rule of Civil Procedure (“FRCP”) 12(b)(1) for lack of subject-matter jurisdiction, and, in the alternative, under FRCP 12(b)(6) for failure to state a claim. Dkt. 9. In Martinez’s response, he conceded that the Court does not have subject-matter jurisdiction over his claims against the United States and argued that the claims should be dismissed without prejudice. Dkt. 13 at 2-3. In the United

States' reply, it argued that Martinez's claims should be dismissed with prejudice based upon its statute of limitations affirmative defense brought under FRCP 12(b)(6). Dkt. 16. Because the Court lacks subject-matter jurisdiction over Martinez's claims against the United States, the Court does not address the merits of the FRCP 12(b)(6) motion. *See Willy v. Coastal Corp.*, 503 U.S. 131, 137 (1992) (noting that “[a] final determination of lack of subject-matter jurisdiction of a case in a federal court, of course, precludes further adjudication of it”). The United States' motion to dismiss (Dkt. 9) is GRANTED. Martinez's claims against the United States are dismissed without prejudice.

IT IS SO ORDERED.

DATED this 24th day of November, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge